



CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2004 AGENDA

SUBJECT

Immediate Intervention/Underperforming Schools Program (II/USP) and High Priority Schools Grant Program (HPSGP): Proposed Definition of Significant Growth: Approve Commencement of the Rulemaking Process

- ☒ Action
- ☒ Information
- ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the commencement of the regulatory process for the proposed regulations, the Initial Statement of Reasons, and Notice of Proposed Rulemaking, and direct staff to conduct a public hearing on the proposed regulations.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In July 2003, the State Board of Education (SBE) defined "significant growth" for purposes of the II/USP as:

"Making positive growth on the schoolwide Academic Performance Index (API) in either of the two funded implementation years and each year thereafter until the school exits the program."

In July 2004, the SBE approved a similar definition of significant growth for schools participating in the HPSGP. At the same time, the SBE directed California Department of Education (CDE) staff to propose definition-related regulations as may be necessary for both II/USP and HPSGP. The SBE received an information memorandum on this subject in August 2004.

SUMMARY OF KEY ISSUES

Education Code sections 52055.5 and 52055.650 provide for a general standard by which schools participating in the II/USP and HPSGP respectively may receive funding or be subject to accountability actions. The definition does not provide a fixed point range, which would draw a distinction between a school achieving its growth target and one making significant growth. Moreover, the current definitions do not address the performance of student subgroups. The purpose of the proposed regulation is to specify a clear standard with respect to a school that has achieved significant growth on the API, and distinguishes it from one which has failed to achieve any growth, or one which meets its growth target on the API.

FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal analysis will be provided by in a Last Minute Memorandum.

ATTACHMENT(S)

Attachment 1: Initial Statement of Reasons (2 Pages)

Attachment 2: Title 5, Education, California State Board of Education Notice of Proposed Rulemaking, II/USP and HPSGP (4 Pages)

Attachment 3: Title 5. Education, Division 1. State Department of Education, Chapter 2. Pupils, Subchapter 4. Statewide Testing of Pupils and Evaluation Procedures, Article 1.6. Definition of Significant Growth (1 Page)

A Last Minute Memorandum will provide Fiscal Analysis of the Proposed Regulations

INITIAL STATEMENT OF REASONS
**Immediate Intervention/Underperforming Schools Program
and High Priority Schools Grant Program**

SECTION 1030.5. Definition of Significant Growth.

SPECIFIC PURPOSE OF THE PROPOSED REGULATION

Education Code sections 52055.5 and 52055.650 provide for a performance standard by which schools participating in the Immediate Intervention/Underperforming Schools Program (II/USP) and High Priority Schools Grant Program (HPSGP), respectively, may receive funding or be subject to accountability actions. The purpose of the proposed regulation is to specify a clear standard with respect to a school that has achieved significant growth on the Academic Performance Index (API), and distinguishes it from one which has failed to achieve any growth, or one which meets its growth target on the API.

NECESSITY/RATIONALE

The current definitions of significant growth adopted by the State Board of Education (SBE) for those participating in II/USP (July 2003), and those participating in HPSGP (July 2004), are vulnerable to confusion with the statutory definition of growth targets (*Education Code* Section 52052(c)), and the definition of “no growth.” The current definitions simply require that a school make “any positive growth on its school wide API” in order for it to achieve significant growth. The definition does not provide a fixed point range (i.e., a range of growth points or API scores) that would establish a distinction between a school achieving its growth target and one making significant growth.

Moreover, the current definitions do not address API performance for comparable student subgroups. For instance, the adopted definitions do not provide clear guidance on how to properly categorize a school that achieves its schoolwide API growth target, but not all of its student subgroups make comparable growth. Under *Education Code* Section 52052(c), such a school could not be characterized as one achieving its growth targets (e.g., all of its subgroups did not achieve their growth targets). Likewise, the school could not be characterized as making “no growth” because it has, in fact, made schoolwide growth. Finally, it is unclear whether the school could be categorized as achieving significant growth because the definitions require only positive growth on schoolwide API and do not address subgroup performance.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The SBE did not rely on empirical studies, reports, or other documents in drafting the proposed regulation.

**REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S
REASONS FOR REJECTING THOSE ALTERNATIVES**

Rather than adopt the proposed regulation, the CDE could maintain the current SBE-adopted definitions of significant growth for II/USP and HPSGP. However, this alternative fails to resolve the issues outlined above. Specifically, the definitions neither provide a fixed point range of schoolwide growth nor do they address student subgroup performance.

**REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION
THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The SBE has not identified any alternatives that would lessen any adverse impact on small business.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC
IMPACT ON ANY BUSINESS**

The proposed regulation does not anticipate any impact on small businesses because it is applicable only to schools.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; Room 5111
Sacramento, CA 95814



TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Immediate Intervention/Underperforming Schools Program (II/USP)
and High Priority Schools Grant Program (HPSGP)

[Notice published September 17, 2004]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at **9:00 a.m. on Tuesday, November 2, 2004**, at 1430 N Street, Room 1801, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The State Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on November 2, 2004**. The State Board will consider only written comments received by the Regulations Coordinator or at the State Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, CA 95814
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: *Education Code* Sections 33031.

References: *Education Code* sections 52053 et seq. and 52055.650 et seq.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Education Code sections 52055.5 and 52055.650 provide for a general standard by which schools participating in the II/USP and HPSGP respectively may receive funding or be subject to accountability actions. The definition does not provide a fixed point range which would draw a distinction between a school achieving its growth target and one making significant growth. Moreover, the current definitions do not address the performance of student subgroups. The purpose of the proposed regulation is to specify a clear standard with respect to a school that has achieved significant growth on the Academic Performance Index (API), and distinguishes it from one which has failed to achieve any growth, or one which meets its growth target on the API.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: TBD

Cost or savings to any state agency: TBD

Costs to any local agency or school district that must be reimbursed in accordance with *Government Code* Section 17561: TBD

Other non-discretionary cost or savings imposed on local educational agencies: TBD

Cost or savings in federal funding to the state: TBD

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: TBD.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: TBD.

Effect on small businesses: The proposed amendments to the regulations do not have an effect on small businesses because the regulations only relate to local school districts and not to business practices.

CONSIDERATION OF ALTERNATIVES

In accordance with *Government Code* Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Martin Miller, Education Program Assistant
California Department of Education
School Improvement Division
1430 N Street, 4th Floor
Sacramento, CA 95814
Telephone: (916) 324-3455
E-mail: mamiller@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at <http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Martin Miller, School Improvement Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 324-3455; fax, (916) 324-3580. It is recommended that assistance be requested at least two weeks prior to the hearing.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 2. Pupils

Subchapter 4. Statewide Testing of Pupils and Evaluation Procedures

Article 1.6. Definition of Significant Growth

§ 1030.5. Definition of Significant Growth.

A school achieves significant growth when its schoolwide Academic Performance Index (API) growth is greater than zero and less than its API growth target, or when the school achieves its schoolwide API growth target but fails to make API growth targets for at least one subgroup.

Authority cited: Section 33031, Education Code. Reference: Sections 52053 et seq. and 52055.650 et seq., Education Code.

7-19-04